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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,887	02/12/2004	Amol R. Chitre	112056-0135U	6695
24267	7590	09/12/2006	EXAMINER	
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			LEROUX, ETIENNE PIERRE	
			ART UNIT	PAPER NUMBER
			2161	

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,887

Applicant(s)

CHITRE ET AL.

Examiner

Etienne P. LeRoux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention as a whole must be useful and accomplish a practical application. That is, it must produce a useful, concrete and tangible result. The claimed invention must possess real world value as opposed to subject matter that represents nothing more than an idea or concept. Claim 1 claims “associating a soft lock with a persistent consistency point image (PCPI). The purpose of above association relative to the preamble limitation of “a system for synchronizing dependencies” is unclear. Above association is merely an abstract idea because there is no useful, concrete, and tangible result flowing from above association such that the present invention possesses real world value.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim

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term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “PCPI” in claim1 is used by the claim to mean “a copy of main memory or video memory at a given instant, i.e., a data structure in the form of a record or array,” while the accepted meaning is “snap-shot.” The term is indefinite because the specification does not clearly redefine the term.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “soft lock” in claim1 is used by the claim to mean “software security feature that prevents the performing of one or more of the usual types of manipulative operation,” while the accepted meaning is “lock or locking.” The term is indefinite because the specification does not clearly redefine the term.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 6,105,057 issued to Kuftedjian et al (hereafter Kuftedjian).

Claim 1:

Kuftedjian discloses means for identifying a dependency upon the set of PCPIs; means for creating a set of soft locks, each soft lock in the set of soft locks associated with each of the PCPIs in the set of PCPIs; and means for transmitting the set of soft locks to one or more of the set of computers [Fig 2, col 5, lines 5-25, col 6, lines 5-10, col 6, lines 50-65, col 7, lines 1-10]

Claim 2:

Kuftedjian discloses herein the set of computers comprises a set of storage appliances [Fig 1. 155]

Claim 3:

Kuftedjian discloses wherein each soft lock comprises a PCPI identifier field, a type field and a string field [Fig 3A]

Claim 4:

Kuftedjian discloses wherein the string field comprises user visible information [Fig 3A]

Claim 5:

Kuftedjian discloses wherein the string field identifies an application that depends upon the PCPI associated with the soft lock [Fig 2, col 5, lines 5-25, col 6, lines 5-10, col 6, lines 50-65, col 7, lines 1-10]

Claim 6:

Kuftedjian discloses wherein the type field identifies a type of data in the string field [Fig 3A].

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Claim 7:

Kuftedjian discloses wherein the type of data comprises an owner name [Fig 3A].

Claim 8:

Kuftedjian discloses wherein the type of data comprises a destination path [col 5, lines 5-15]

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuftedjian in view of Applicant's admitted prior art (hereafter AAPA).

Claim 9:

Kuftedjian discloses the elements of claim 1 as noted above but does not disclose wherein the type of data comprises a qtree name. AAPA discloses wherein the type of data comprises a qtree name [Page 15]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kuftedjian to include wherein the type of data comprises a qtree name for the purpose of grouping data records according to their frequency of changing.

Regarding claims 10-49, examiner maintains that they can be rejected on a similar basis to claims 1-9.

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Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022.

The examiner can normally be reached on Monday through Friday between 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Etienne LeRoux

9/7/2006



Primary Examiner